

SSB 6352 - S AMD 692

By Senators Hargrove, Stevens

ADOPTED 02/16/2004

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the current  
4 telephone service for offender calls from department of corrections  
5 facilities is based on outdated technology that provides neither the  
6 most secure nor the most accountable system available and is provided  
7 at a high cost to the offenders' families. The legislature, in budget  
8 provisions, has required the secretary of corrections to investigate  
9 other systems as offender telephone service contracts came due for  
10 renewal. The legislature now finds that the current statute prevents  
11 the secretary of corrections from using systems that provide greater  
12 security, more offender accountability, and lower costs. Therefore,  
13 the legislature intends to remove this barrier while retaining the  
14 intent of the statute to provide safe, accountable, and affordable  
15 telephone services.

16 **Sec. 2.** RCW 9.73.095 and 1998 c 217 s 2 are each amended to read  
17 as follows:

18 (1) RCW 9.73.030 through 9.73.080 and 9.73.260 shall not apply to  
19 employees of the department of corrections in the following instances:  
20 Intercepting, recording, or divulging any telephone calls from an  
21 (~~inmate~~) offender or resident of a state correctional facility; or  
22 intercepting, recording, or divulging any monitored nontelephonic  
23 conversations in (~~inmate~~) offender living units, cells, rooms,  
24 dormitories, and common spaces where (~~inmates~~) offenders may be  
25 present. For the purposes of this section, "state correctional  
26 facility" means a facility that is under the control and authority of  
27 the department of corrections, and used for the incarceration,  
28 treatment, or rehabilitation of convicted felons.

1       (2)(a) All personal calls made by (~~inmates~~) offenders shall be  
2 (~~collect calls only~~) made using a calling system approved by the  
3 secretary of corrections which is at least as secure as the system it  
4 replaces. In approving one or more calling systems, the secretary of  
5 corrections shall consider the safety of the public, the ability to  
6 reduce telephone fraud, and the ability of offender families to select  
7 a low-cost option.

8       (b) The calls (~~will~~) shall be "operator announcement" type calls.  
9 The operator shall notify the receiver of the call that the call is  
10 coming from a prison (~~inmate~~) offender, and that it will be recorded  
11 and may be monitored.

12       (3) The department of corrections shall adhere to the following  
13 procedures and restrictions when intercepting, recording, or divulging  
14 any telephone calls from an (~~inmate~~) offender or resident of a state  
15 correctional facility as provided for by this section. The department  
16 shall also adhere to the following procedures and restrictions when  
17 intercepting, recording, or divulging any monitored nontelephonic  
18 conversations in (~~inmate~~) offender living units, cells, rooms,  
19 dormitories, and common spaces where (~~inmates~~) offenders may be  
20 present:

21       (a) Unless otherwise provided for in this section, after  
22 intercepting or recording any conversation, only the superintendent and  
23 his or her designee shall have access to that recording.

24       (b) The contents of any intercepted and recorded conversation shall  
25 be divulged only as is necessary to safeguard the orderly operation of  
26 the correctional facility, in response to a court order, or in the  
27 prosecution or investigation of any crime.

28       (c) All conversations that are recorded under this section, unless  
29 being used in the ongoing investigation or prosecution of a crime, or  
30 as is necessary to assure the orderly operation of the correctional  
31 facility, shall be destroyed one year after the intercepting and  
32 recording.

33       (4) So as to safeguard the sanctity of the attorney-client  
34 privilege, the department of corrections shall not intercept, record,  
35 or divulge any conversation between an (~~inmate~~) offender or resident  
36 and an attorney. The department shall develop policies and procedures  
37 to implement this section. The department's policies and procedures

1 implemented under this section shall also recognize the privileged  
2 nature of confessions made by an offender to a member of the clergy or  
3 a priest in his or her professional character, in the course of  
4 discipline enjoined by the church to which he or she belongs as  
5 provided in RCW 5.60.060(3).

6 (5) The department shall notify in writing all (~~inmates~~)  
7 offenders, residents, and personnel of state correctional facilities  
8 that their nontelephonic conversations may be intercepted, recorded, or  
9 divulged in accordance with the provisions of this section.

10 (6) The department shall notify all visitors to state correctional  
11 facilities who may enter (~~inmate~~) offender living units, cells,  
12 rooms, dormitories, or common spaces where (~~inmates~~) offenders may be  
13 present, that their conversations may intercepted, recorded, or  
14 divulged in accordance with the provisions of this section. The notice  
15 required under this subsection shall be accomplished through a means no  
16 less conspicuous than a general posting in a location likely to be seen  
17 by visitors entering the facility."

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18 On page 1, line 2 of the title, after "facilities;" strike the  
19 remainder of the title and insert "amending RCW 9.73.095; and creating  
20 a new section."

**EFFECT:** DOC is directed to consider the safety of the public, the  
ability to reduce telephone fraud, and the ability to select a low-cost  
option in selecting a telephone system for use by offenders.

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